

REMARKS

This Amendment is in response to the Office Action mailed March 7, 2007. Claims 1-19, 58-61, 64-67, and 73-79 are pending. In this response, claims 1, 58, 67, and 73-79 have been amended. No claims have been cancelled or added. Thus, claims 1-19, 58-61, 64-67, and 73-79 remain pending. Reconsideration in light of the amendments and remarks made herein is respectfully requested.

Rejection Under 35 U.S.C. § 112

The Examiner rejects claims 1-19, 58-61, 64-67 and 73-79 under 35 U.S.C. § 112, second paragraph, as being indefinite for containing the limitation “third party supplier” because the claims discuss two parties - a user and a supplier (*See* Office Action, Mailed March 7, 2007). The Applicants respectfully disagree. The claims discuss three parties, the user, the retailer, and a third party supplier. However, to further clarify, Applicants have amended the independent claims to specifically recite, for example, an “e-commerce retailer.” Therefore, as amended, each independent claim includes a reference to three distinct parties, i.e., a user, an e-commerce retailer, and a third party supplier.

Furthermore, as is well known that sales transactions occur between a buyer and a seller, i.e. a user and a retailer. Parties that are not directly associated with a sales transaction are commonly referred to as “third parties.” The claims recite limitations directed towards transactions between users and e-commerce retailers, one skilled in the art would understand the scope and usage of the term “third party fulfiller.”

Therefore, Applicants respectfully requests that the Examiner withdraw the rejection of claims 1-19, 58-61, 64-67 and 73-79 under 35 U.S.C. § 112, second paragraph.

Rejection Under 35 U.S.C. § 101

The Examiner rejects claims 67 and 73-79 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Examiner suggested redrafting the claims to recite a computer readable medium executable by a computer or processor (Office Action, mailed March 3, 2007, pages 4-5). Applicants have amended the claims as suggested by the Examiner. Thus, Applicants respectfully request that the Examiner withdraw the rejection of claims 67 and 73-79 under 35 U.S.C. § 101.

Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 1-9, 16, 58-61, 67 and 76-79 under 35 U.S.C. § 103(a) as being unpatentable over Tam, et al. (U.S. Application No. 2002/0184116 A1) (hereinafter referred to as Tam '116) in view of Tam, et al. (U.S. Application No. 2002/0147656 A1) (hereinafter referred to as Tam '656). Applicants reserve the right to swear behind these references.

Tam '116 describes a data structure for holding product information (Tam '116, Abstract). Sellers create electronic catalogs, by specifying products, identifying those products by stock number or a universal product code (UPC), and supplying an image of the product (Tam '116, paragraphs [0034-0036]). After creating a catalog, the seller then uploads the entire catalog to one or more aggregators (Tam '116, paragraphs [0018-0019]). Aggregators then compile the seller catalogs for distribution to potential buyers (Tam '116, paragraphs [0022]). Multiple aggregators can provide catalogs from a particular seller, and a single seller can offer product catalogs to multiple aggregators (Tam '116, paragraphs [0022-0024]). The aggregators may then provide catalogs to buyers (Tam '116, paragraph [0015]). Tam '116, therefore, describes the generation and distribution of product catalogs.

Tam '656 describes the sales transactions resulting from the catalogs generated in Tam '116. As in Tam '116, sellers create catalogs, upload those catalogs to aggregators, which in turn distribute those catalogs to buyers (Tam '656, paragraph [0025-0026]). Buyers then purchase items from a catalog at a clearinghouse (Tam '656, paragraphs [0027-0028]). The clearinghouse then facilitates the purchase by forwarding orders to the seller or an associated fulfiller (Tam '656, paragraph [0028]).

Amended claim 1 recites:

An improved method for an e-commerce retailer to display and sell items of a third party comprising:

identifying each item of a third party supplier with a unique identifier;

associating the unique identifier of the item with an image of the item, said image residing on a computer maintained by the third party supplier;

in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier; and

in response to an order request from the user to the e-commerce retailer, for one or more items,

identifying, based at least in part on said unique identifier, each item requested and an appropriate third party supplier for each requested item,

automatically generating an order for each requested item to be transparently sent to the third party supplier.

(Emphasis Added).

Applicants respectfully submit that neither Tam '116 nor Tam '656, alone or in combination, teaches or suggests "identifying each item of a third party supplier with a unique identifier" or "in response to a product request from a user to the e-commerce retailer, presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier" as claimed by the Applicants.

Tam '116 and Tam '656 describe that products are identified by stock number or UPC number (Tam '116, paragraphs [0034-0036]; Tam '656, paragraphs [0054]). Furthermore, the Examiner states "the identifier can be the stock or UPC number" (Office Action, mailed March 8, 2007, page 6). However, stock and UPC number are not unique to each item. Rather, stock and UPC numbers identify a product. However, each of the identified products is provided with the same stock or UPC number. For example, a UPC/Stock number may identify the product Widget A. However, each of products Widget A₁, Widget A₂, ..., Widget A_n, all of type Widget A, would be identified by the same UPC/Stock number. As such, a UPC/Stock number does not uniquely identify each item, but instead identifies a collection of items. Thus, because stock and UPC numbers are not unique to each item, the references fail to describe or suggest "identifying each item of a third party supplier with a unique identifier" as claimed by the Applicants.

Furthermore, Applicants recite in part:

in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier;

That is, in response to a user product request received by an e-commerce retailer, the e-commerce retrieves images from a computer maintained by the third party supplier. Further, as recited in the claim, the images are maintained by a third party supplier, and not the e-commerce retailer that received the product request.

Tam '116 describe a catalog system in which product data, including images, are obtained by an aggregator prior to any information request of a buyer. Tam '656 describes that an aggregator may maintain pointers to information maintained in their databases. However, the aggregator must obtain the information in order to compile a catalog. Thus, Tam '656 also

teaches the aggregator obtaining images prior to any information request of a buyer. Therefore, Tam '116 and Tam '656 obtaining and organizing images into a catalog before users request products, which is exactly the opposite of "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier" as claimed by the Applicants.

Thus, Tam '116 and Tam '656, alone or in combination, fail to render claim 1, and claims 2-9 and 16 which depend from claim 1, obvious.

Amended claim 58 recites:

A system providing an improved method for an e-commerce retailer to display and sell items of a third party, said system comprising:

- an e-commerce retailer to identify each item of a third party supplier with a unique identifier;
- an image server module for receiving user information requests from the e-commerce retailer regarding certain third party supplier items, and transparently providing images and descriptions of said items retrieved from a computer maintained by the third party supplier in response to user information requests; and
- an order engine module, in communication with said image server module, for processing orders for third party supplier items.

(Emphasis Added) As discussed above, with respect to claim 1, Tam '116 and Tam '656 fail to teach or suggest identifying each item of a third party supplier with a unique identifier, or providing images and descriptions of items in response to user information requests. Because claim 58 claims "an e-commerce retailer to identify each item of a third party supplier with a unique identifier" and "an image server module for receiving user information requests from the e-commerce retailer regarding certain third party supplier items, and transparently providing images and descriptions of said items retrieved from a computer maintained by the third party supplier in response to user information requests" claim 58 is not obvious over Tam '116 and

Tam '656, whether taken alone or in combination. Furthermore, claims 59-61 depend from claim 58, and include additional features and limitations. Thus, claims 59-61 are also not obvious over Tam '116 and Tam '656.

Amended claim 67 recites:

An computer readable medium that provides instructions, which when executed on a processing system, cause said processing system to perform a method comprising:

identifying each item of a third party supplier with a unique identifier;

associating the unique identifier of the item with an image of the item, said image residing on a computer maintained by the third party supplier;

transparently presenting, by an e-commerce system, third party supplier items to a user for on-line commerce;

receiving user information requests at the e-commerce system regarding certain graphic images from an item presentation program logic, and providing digital images for display wherein said digital images are retrieved from a computer system maintained by the third party supplier; and

processing orders for graphic images to be transparently sent to the appropriate third party supplier.

(Emphasis Added) As discussed above, with respect to claim 1, Tam '116 and Tam '656 fail to teach or suggest identifying each item of a third party supplier with a unique identifier, or providing images and descriptions of items in response to user information requests. Because claim 67 claims “identifying each item of a third party supplier with a unique identifier” and “receiving user information requests ... and providing digital images for display wherein said digital images are retrieved from a computer system maintained by the third party supplier” claim 67 is not obvious over Tam '116 and Tam '656, whether taken alone or in combination.

Amended claim 76 recites:

A computer readable medium that provides instructions, which when executed on a processing system, cause said processing system to perform a method comprising:

identifying, with a tagging logic, each item of a third party supplier with a unique identifier, each unique identifier associated with data about that item;

transparently presenting, with an e-commerce logic, at least some of the items to a user for on-line commerce in response to a user information request for a third party supplier item;

retrieving the data, with an XML request logic, about the one or more items from a third party supplier website, and enabling the e-commerce logic to present the data to the user for the on-line commerce; and

processing orders for items with an order engine to.

(Emphasis Added)

As discussed above, with respect to claim 1, Tam '116 and Tam '656 fail to teach or suggest identifying each item of a third party supplier with a unique identifier, or providing images and descriptions of items in response to user information requests. Because claim 76 claims "identifying, with a tagging logic, each item of a third party supplier with a unique identifier, each unique identifier associated with data about that item" and "transparently presenting, with an e-commerce logic, at least some of the items to a user for on-line commerce in response to a user information request for a third party supplier item; [and] retrieving the data, with an XML request logic, about the one or more items from a third party supplier website, and enabling the e-commerce logic to present the data to the user for the on-line commerce" claim 76, and claims 77-79 which depend therefrom, are not obvious over Tam '116 and Tam '656, whether taken alone or in combination.

Therefore, Applicants respectfully request that the Examiner withdraw the rejection of claims 1-9, 16, 58-61, 67 and 76-79 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656.

The Examiner rejects claims 10-12, 17, 64 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Baum (U.S. Application

No. 2002/0065741 A1). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Baum, alone or in combination, fail to teach or suggest each and every element as claimed by the applicants in claims 10-12, 17, 64 and 75.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest identifying each item of a third party supplier with a unique identifier or retrieving images and informational about third party supplier items, from a computer system maintained by the third party supplier, in response to a user request.

Baum describes a user initiating the distribution of cards from a selected service, where the cards include an image and text associated with the image (Baum, page 8, paragraphs 78-80; Figure 4). Baum merely discusses distributing e-cards, and fails to describe or suggest third party suppliers, identifying each item of a third party supplier with a unique identifier. Furthermore, Baum does not teach or suggest retrieving images and information about third party supplier items from a computer system maintained by the third party supplier, in response to a user request, as recited in claims 1, 58, and 67. Therefore, Tam '116, Tam '656, and Baum, alone or in combination fail to render claims 1, 58, and 67, and thus dependent claims 10-12, 17, 64 and 75, obvious. Applicants respectfully request that the Examiner withdraw the rejection of claims 10-12, 17, 64 and 75 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Baum.

The Examiner rejects claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Garfinkle, et al. (U.S. Patent No. 6,017,157). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Garfinkle, alone or in combination, fail to teach or suggest each and every element as claimed by the applicants in claim 13.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest "identifying each item of a third party supplier with a unique identifier" and "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier."

Garfinkle describes an access code that identifies a photographer's digital images, as well as particular image server where the images are stored (Garfinkle, Column 4, lines 6-20). The photographer may then order print copies of the uploaded digital images from a pre-selected fulfillment center utilizing the photographer's access code (Garfinkle, Column 9, lines 8-13; Column 9, lines 26-41). Therefore, Garfinkle has two parties, the photographer and a fulfillment center. Garfinkle does not teach or suggest a "third party supplier." Thus, because Garfinkle merely discusses distributing a photographer identifying their own images and a server that stores those images, Garfinkle also fails to describe or suggest "identifying each item of a third party supplier with a unique identifier" or "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier," as recited in claim 1. Therefore, Tam '116, Tam '656, and Garfinkle, alone or in combination fail to render claims 1, and thus dependent claim 13, obvious. Applicants respectfully request that the Examiner withdraw the rejection of claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Garfinkle.

The Examiner rejects claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Lyons, et al. (U.S. Application No.

2002/0077937 A1). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Lyons, alone or in combination, fail to teach or suggest each and every element as claimed by the applicants in claim 14.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest "identifying each item of a third party supplier with a unique identifier" and "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier."

Lyons describes a system where a user buys goods online and picks up goods at a selected pickup location (Lyons, Abstract; page 6, paragraphs 50-52). If the goods are available at a pickup location, a message is sent to the seller indicating that such goods are available (Lyons, page 5, paragraph 50). Lyons has two parties, the buyer and seller, because the purchase transactions of Lyons include only the buyer and the seller. Therefore, Lyons does not address retrieving images from third party suppliers in response to user requests. Thus, Lyons also fails to describe or suggest "identifying each item of a third party supplier with a unique identifier" and "in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier," as recited in claim 1. Therefore, since none of the references, alone or in combination, teaches or suggests the limitations of claim 1, claim 1 is not rendered obvious by Tam '116 in view of Tam '656, and further in view of Lyons. Furthermore, claim 14 depends on claim 1, and includes additional features and limitations. Thus, claim 14 is also not rendered obvious by Tam '116 in view of Tam '656, and further in view of Lyons. Applicants respectfully request that the

Examiner withdraw the rejection of claim 14 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Lyons.

The Examiner rejects claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Shmueli, et al. (U.S. Application No. 2002/0143637 A1). The Applicants respectfully disagree and submit that Tam '116, Tam '656, and Shmueli, alone or in combination, fail to teach or suggest each and every element as claimed by the applicants in claim 15.

As discussed above, Tam '116 and Tam '656 fail to teach or suggest “identifying each item of a third party supplier with a unique identifier” and “in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier.”

Shmueli describes a system for facilitating multiple shopping sessions at multiple websites with a portable device that retains and utilizes information from the multiple shopping sessions (Shmueli, page 6, paragraphs 61-65). However, while Shmueli has multiple sellers, the only parties to Shmueli's transaction are the buyer and multiple sellers. Shmueli does not teach or suggest a third party supplier from whom a seller retrieves data. Therefore, Shmueli does not address identifying third party supplier items with unique identifiers or retrieving images from third party suppliers in response to user requests. Thus, Shmueli also fails to describe or suggest “identifying each item of a third party supplier with a unique identifier” or “in response to a product request from a user to the e-commerce retailer, the e-commerce retailer presenting at least some of the images of third party supplier items to the user for on-line commerce, said images being retrieved from said computer maintained by the third party supplier,” as recited in

claim 1. Therefore, Tam '116, Tam '656, and Shmueli, alone or in combination fail to render claim 1, and thus dependent claim 15, obvious. Applicants respectfully request that the Examiner withdraw the rejection of claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Shmueli.

The Examiner rejects claims 18-19, 65-66, and 73-74 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Johnson, et al. (U.S. Patent No. 6,505,172).

With respect to independent claims 1, 58, and 67, as discussed above, Tam '116 and Tam '656 fail to describe or suggest identifying each item of a third party supplier with a unique identifier or retrieving images and informational about third party supplier items, from a computer system maintained by the third party supplier, in response to a user request.

Johnson describes generating purchase orders that are forwarded to numerous warehouse locations for satisfaction from warehouse inventory (Johnson, Figure 3). Warehouse inventory location is transmitted back to a purchaser (Johnson, column 10, lines 50-55). However, Johnson does not address providing data from a third party supplier, or retrieving images from third party suppliers in response to user requests. Thus, Johnson also fails to describe or suggest identifying each item of a third party supplier with a unique identifier or retrieving images and informational about third party supplier items, from a computer system maintained by the third party supplier, in response to a user request. Therefore, since none of the references, alone or in combination, teach or suggest the limitations of independent claims 1, 58, and 67, claim 1 58, and 67 are not rendered obvious by Tam '116 in view of Tam '656, and further in view of Johnson. Furthermore, claims 18-19, 65-66, and 73-74 depend on claims 1, 58, and 67, respectively, and includes additional features and limitations. Thus, claims 18-19, 65-66, and 73-74 are also not

rendered obvious by Tam '116 in view of Tam '656, and further in view of Johnson. Applicant respectfully requests that the Examiner withdraw the rejection of claims 18-19, 65-66, and 73-74 under 35 U.S.C. § 103(a) as being unpatentable over Tam '116 in view of Tam '656, and further in view of Johnson.

Conclusion

Applicant reserves all rights with respect to the applicability of the doctrine of equivalents. Applicant respectfully requests that a timely Notice of Allowance be issued in this case. If a telephone interview would expedite the prosecution of this application, the Examiner is invited to contact William L. Jaffe at (714) 557-3800.

Respectfully submitted,

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